IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Crl.Rev.Pet.No. 344 of 2000()

(AGAINST JUDGMENT DATED 30/11/1995 OF THE 1ST CLASS JUDICIAL MAGISTRATE COURT VAIKOM IN CC.NO.232/94 AND THE JUDGMENT DATED 3/3/2000 OF ADDL.SESSIONS COURT, KOTTAYAM IN CA.219/1995)

.....

PETITIONER: APPELLANT:ACCUSED:

K.P.RAVIDASAN,
BADGE NO.1624, HINDUSTAN NEWS PRINT LIMITED.,
NEWS PRINT NAGAR, VELLOOR.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENT: COMPLAINANT:

----

1. STATE OF KERALA.

2. K.D. SATHEESH KUMAR,
SATHEESH NIVAS,
MEVELLOOOR KARA,
VELLOOR VILLAGE.

BY PUBLIC PROSECUTOR SRI. P.N. SANTHOSH for R1
BY ADV. SRI.THOMAS KUNNATHOOR for R2

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

J.B.KOSHY, J.

Crl.R.P.No.344 OF 2000

Dated 26th September, 2007

ORDER

Revision petitioner was convicted under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for three months. Allegation of the complainant (first respondent in this revision petition) was that towards a loan availed the accused issued Ext.P1 cheque for a sum of Rs.15,000/- promising its encashment on presentation, is the case of the complainant. But the cheque when presented for encashment was returned dishonoured due to insufficiency of funds in the account of the accused. After issuing a demand in writing for the sum under Ext.P1 cheque with intimation of its dishonour, and that being not responded to after acceptance of the same by the accused, the complainant launched prosecution proceedings against the accused by filing the complaint before the court below. According to the accused, cheque was given as security and his signature in Ext.P1 cheque was admitted by the accused. Though statutory notice was received by the accused, no reply was sent. According to him, a blank cheque was issued and handwriting in the cheque is not his. But, his signature is admitted. Ext.P1 is the cheque. Exts.P2 and P3 memos would show that cheque was dishonoured for insufficiency of

funds. PW2 is the branch Manager of the Bank who proved that the cheque was dishonoured for insufficiency of funds in the account. Defence case that cheque was issued for another transaction and it was dishonoured was not proved. Trial court's findings were approved by the appellate court. We see no ground to interfere in the concurrent findings of the courts below in a revisional jurisdiction. There is no perverse finding or illegality. But, with regard to sentence, considering the cheque amount, we modify the same. Instead of simple imprisonment for three months, he need suffer simple imprisonment for 10 days only with a compensation of Rs.15,000/=. On realization of the amount of compensation, it shall be given to the complainant. Compensation if not paid can be realised by resorting to Section 421 read with Section 431 of the Code of Criminal Procedure.

The revision petition is allowed partly.

J.B.KOSHY
Judge

tks